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Report of the Working Group on the Universal Periodic Review*

Bangladesh

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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Additional Remarks by Bangladesh on Recommendations Received from State parties in the 3rd Cycle of UPR held in May 2018

Total recommendations received – 251

Accepted – 178

Noted – 73

Deferred and now accepted without any comment (8)

148.3, 148.13, 148.14, 148.15, 148.18, 148.19, 148.22, 148.2

1. The recommendation no. **148.2** by Madagascar was initially 'noted' and was reflected so in the draft report of the working group. However, immediately before the adoption of the working group's draft report, Bangladesh delegation decided to 'defer' the recommendation. Bangladesh has now considered the recommendation as deferred and finally accepts this without comments.

Deferred and now accepted with comments (3)

148.4, 148.6, 148.12

148.4 – The Constitution of Bangladesh does not designate or recognize any particular minority group or community of people in the country as "indigenous peoples". In fact, all citizens of this country are considered indigenous to its land. The constitution of Bangladesh however recognizes various ethnic groups living within the country and designates them as 'ethnic minorities'. The Constitution in Art 23 A provides that the State shall undertake responsibility to protect and develop the unique local culture and tradition of tribal and ethnic communities. The Government has enacted the Small Ethnic Communities Cultural Institutions Act, 2010 to preserve and promote the culture, heritage, language, religious practices and traditional lifestyle of all ethnic communities living in the hill districts and plain lands. A number of specialized Small Ethnic Communities Cultural Institutes have been set up in different locations to preserve and promote the culture, heritage and tradition of ethnic minorities. Moreover, special measures have been taken to provide pre-primary education in mother tongues of various ethnic communities.

148.6 – Bangladesh accepts the recommendation to continue its efforts in strengthening the capacity of National Human Rights Commission. However, the recommendation further refers to a 'newly established ombudsman', which is not factually correct.

148.12 – The legal system of Bangladesh does not recognize any term, such as, 'enforced disappearance.' Crimes like 'abductions' and 'kidnappings' are well defined in the criminal justice system of Bangladesh. Any violation of law by anyone including the law enforcement officials is dealt with under our existing legal provisions. No immunity is granted on the ground of his or her position or status.

Comments on noted recommendations

Deferred and now noted

148.1 – Bangladesh is party to 08 out of 09 core human rights instruments. Bangladesh remains committed to the implementation of the instruments it has become party to and, to that end, has been taking necessary legal and institutional measures. Bangladesh believes ratification of rest of the human rights instruments would require consistent national efforts

for development of coherent legal framework, institutional capacity building of its implementation agencies and consensus among various stakeholders.

148.21 – Government has already raised the minimum age of criminal responsibility from 7 to 9 years through amendment of Penal Code 1860. Further amendments would be made as and when a consensus is reached among the relevant stakeholders including the law enforcement agencies.

Ratification of the Convention on enforced disappearance (5)

148.16, 148.17 (deferred and now noted) 149.5, 149.6, 149.52 (noted in May, 2018)

2. Bangladesh does not agree to the proposition that 'extra-judicial killings' or 'enforced disappearances' occur frequently in Bangladesh. In fact, the legal system of Bangladesh does not recognize any term, such as, 'enforced/ forced disappearance.' Crimes like 'abductions' and 'kidnappings' which are well defined in the criminal justice system of Bangladesh are often used as 'enforced disappearance' with ulterior motive. Any violation of law by anyone including the law enforcement officials is dealt with under our existing legal provisions. The law does not provide any kind of immunity to the law enforcement officials for violations of any penal law. Also, pursuant to the recommendation received during the 2nd cycle of the UPR, the Government has enacted the Torture and Custodial Death (Prevention) Act, 2013. Under this Act, any person convicted of torture shall be punished with rigorous imprisonment for a term not less than five years and a fine. In the event of death caused by torture, punishment would be rigorous imprisonment for life and fine. The Act allows a victim to make complaint directly to the Superintendent of Police or to a Court. The Act lays procedure for protection of complainant and witness. Under this Act a victim of torture (or his/her family) is also entitled to compensation.

LGBTI issues/sexual rights (11)

149.25, 149.26, 149.27, 149.28, 149.29, 149.30, 149.31, 149.32, 149.33, 149.53, 149.55

3. The issue of LGBTI rights is a religious, social, cultural, moral, ethical issue for Bangladesh. While dealing with this issue, the Government takes into account the views, aspirations, sentiments and religious belief of the majority of its people. The government is committed to ensure fulfilling the rights of all citizens of the country. We do not see it necessary to create new set of rights, which is not universally accepted as a right.

Death penalty (11)

149.3, 149.4, 149.36, 149.37, 149.38, 149.39, 149.40, 149.41, 149.42, 149.43, 149.44 (noted in May, 2018)

4. In Bangladesh, death penalty remains a valid form of punishment and deterrence for the most serious and heinous crimes. However, there are multiple layers of safeguard before it is finally executed. Any judgment resulting in death sentence goes automatically to High Court Division for confirmation. Once confirmed, the aggrieved party still has right to appeal, review or revision to Appellate Division and finally to seek Presidential clemency. Till now, the Government has not taken any decision to abolish, defer or put moratorium on death penalty. However, it has been gradually edging out death penalty with other forms of punishments, such as, life imprisonment.

Ratification of ILO Conventions (2)

149.12, 149.13

5. Bangladesh is party to 33 Conventions of ILO including 7 fundamental conventions and the Government, along with International and domestic partners, continues to implement the obligations for ensuring labour rights. Bangladesh attaches great importance to the issues of labour rights, decent environment in workplace, elimination of child labour and rights of the domestic workers and already achieved incremental progress in these areas. The government will consider ratifying the relevant ILO Conventions in due course.

Ratification of the Optional Protocols to ICCPR, ICESCR and CAT (8)

149.1, 149.2, 149.7, 149.8, 149.9, 149.10, 149.11, 149.21

6. The Government of Bangladesh (hereinafter GoB) recognizes that importance of optional protocols under the core human rights instruments, which allow individuals to lodge complaints directly to the respective treaty bodies, and in that spirit, has ratified optional protocols under CEDAW and CRPD. However, the GoB also believes that before allowing such direct communications, we should satisfactorily adopt national legislations, action plans and strategies to ensure proper implementation of the existing treaty obligations. We believe that the first step for addressing individual complaints is to establish proper national mechanisms and to strengthen it. We already have several mechanisms, which includes thematic committees established by NHRC. In addition, Ministry of Women and Children has established a Central Cell to address issues related to violence against women and children, which is monitored by a 15-member Inter-Ministerial Coordination Committee to Prevent Violence against Women and Children. Similar cells exist in the Department of Women's Affairs and National Women's Organization. The major roles of the Central Cell are to receive allegations and statistics of violence against women and children and to follow-up the remedial and legal measures through the proper authorities.

7. The National Human Rights Commission of Bangladesh has established thematic committees to address complaints/allegations of issue-specific human rights violations. We believe that strengthening effective national mechanisms and institutions are most effective way of addressing individual complaints on the human rights issues.

Ratification of the Refugee Convention and civil rights of Rohingyas/refugees (8)

148.23, 148.24 (deferred and further noted) 149.14, 149.15, 149.16, 149.17, 149.51, 149.60 (noted in May 2018)

8. Although Bangladesh is not a Party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and the 1961 Convention on the Reduction of Statelessness, Bangladesh has always adhered to the core principles of the international protection regime, including the principle of non-refoulement. Bangladesh has been hosting the displaced Myanmar nationals for long three decades and currently more than 1.1 million Rohingyas from Myanmar have taken shelter to Bangladesh. Bangladesh is providing all kinds of basic necessities of those Rohingyas with the help of UN Organizations and National and International NGOs. Informal education is being provided to Rohingya children and youth.

Rights of indigenous people (3)

149.57, 149.58, 149.59

9. The Constitution of Bangladesh does not designate or recognize any particular minority group or community of people in the country as "indigenous peoples". In fact, all citizens of this country are indigenous to its land. The constitution of Bangladesh however recognizes various ethnic groups living within the country and designates them as 'ethnic minorities'. The Constitution in Art 23 A provides that the State shall undertake responsibility to protect and develop the unique local culture and tradition of tribal and ethnic communities.

Marital rape (4)

148.20 (deferred and further noted) 149.24, 149.35, 149.56 (noted in May, 2018)

10. The Constitution of Bangladesh guarantees equal rights of women in all spheres of the State and of public life. In addition, the Constitution of Bangladesh recognizes that affirmative actions are necessary for the overall development of women in the society. A 'National Action Plan to Prevent Violence Against Women and Children (2013-2025)' has been formulated to address gender gaps and take measures to combat gender stereotypes through legal, social and economic activities. The National Women Development Policy 2011 provides for women's increased participation in the labour market, equal opportunity at the workplace, wage equality. The Labour Act, 2006 provides for decent work environment, right to trade unions, social protection measures and most importantly equal pay for equal work for men and women. However, Bangladesh's existing legal system does not recognize marital rape. Necessary social conditions do not prevail in the country at this moment to introduce such term in the legal system of Bangladesh.

Withdrawal of reservation from Article 2 and 16.1(c) of CEDAW (1)

149.18

11. The issue of withdrawal of existing reservation on Article 2 and Article 16.1(c) of CEDAW was considered earlier. The Law Commission of Bangladesh was requested to review the merit of the reservation and to provide appropriate recommendations. Following the examples of other Muslim Countries, the Law Commission opined "The Government of Bangladesh withdraws her reservation from Article 2 and Article 16.1(c) of CEDAW. However, Bangladesh shall apply the provisions of these articles in compatibility and harmony with her Constitution and existing laws". The Government has taken note of the recommendations and will consider accepting the recommendation after broad based multi stakeholder consultations aimed at creating consensus among various section of the society including minorities.

Special provisions of Child Marriage Restraint Act (5)

148.7, 148.8, 148.10, 148.11 (deferred and further noted) 149.34 (noted in May, 2018)

12. Eliminating child marriage is a high priority for the Government of Bangladesh. Hon'ble Prime Minister has pledged to end the marriage of girls below the age of 15 years and to reduce by one third the rate of marriage for girls aged between 15 and 18 years in

2021, and to completely eliminate child marriage by 2041. The Government has undertaken a number of legal, social and economic initiatives to prevent child marriage. The Child Marriage Restraint Act, 2017 has created the provision of formation of child marriage prevention committees in national, district, upazila and union level with government officials, local public representatives, non-government officials and civil society representatives.

13. According to the Child Marriage Restraint Act, 2017, minimum age for marriage of male is 21 years of age and for female 18 years of age. However, considering the socio-economic realities, special provision has been made to allow marriage below the age limits for the betterment of the minor, with the direction of the Court and consent of the parents or guardian. This provision is not applicable for marriages by force, rape and kidnap. As of now this "special circumstances" clause has never been invoked. The draft Rules of Procedures, which is under process, would elaborate steps to prevent the misuse of the "special circumstances" clause of CMRA 2017.

Standing invitation to and responding to all Special Procedures of the HRC (2)

149.19, 149.20 (noted in May, 2018)

14. Bangladesh has been fully cooperating with the Special Procedures of the human rights mechanism and has in most of the cases positively responded to their invitations. Some Special Rapporteurs have visited Bangladesh in the recent years. A few requests are pending. The Government is in the process of working out mutually convenient dates for the visit of some of the Special Rapporteurs. Bangladesh feels that the issuance of a standing invitation is not the only way to ensure full cooperation with the Special Procedures.

Empowering NHRC (3)

148.5 (deferred and further noted) 149.22, 149.23 (noted in May, 2018)

15. Bangladesh is committed to strengthen the National Human Rights Commission of Bangladesh as an efficient and independent institution. Over the years, the government of Bangladesh has increased its allocable portion of fund to the NHRCB by 172 percent. The NHRCB receives its allocated fund directly to its account. The Government has no role in the expenditure of the funds by the Commission. The GoB is also considering expansion of manpower of the NHRCB by creating additional 93 posts and making available more resources for logistic support. Bangladesh believes, the capacity building of NHRC in all terms would eventually result in the organization becoming a fully capable national watchdog compliant with the Paris Principles.

Freedom of expression (6)

149.45, 149.46, 149.47, 149.48, 149.49, 149.50 (noted in May, 2018)

16. In order to protect the citizens from digital offence/cyber crimes, many countries have enacted digital or electronic offence protection laws. The Government of Bangladesh has earlier enacted Information Communications Technology Act 2006, which was further amended in 2013. The law is in full consonance with the international human rights instruments including ICCPR (Art 21 and 22), where incitement of violence in the name of freedom of expression has been prohibited.

17. In view of the ever-changing nature of cyber threats, defamation and other forms of misuse of cyber domain by the criminals, the GoB has drafted the Digital Security Bill,

2018. The bill has been placed in the parliament and after scrutiny; the Parliamentary Standing Committee has advised the Government to address the concerns of the media. Accordingly, initiatives have been taken to have further consultation with relevant stakeholders including the editors of various media outlets. After entering into force of the Digital Security Bill, sections 54, 55, 56, 57 and 66 of the Information and Communication Act, 2006 would be deleted.

18. The Government of Bangladesh acknowledges the role of NGOs and the vibrant civil society in fostering its democratic environment and advancing its socio-economic goals. To provide a well-defined and transparent legal framework for the NGOs to function effectively, the Government has enacted the Foreign Donation (Voluntary Activities) Regulation Act, 2016. The Act consolidates piecemeal and scattered set of laws and rules that earlier used to guide the foreign funded voluntary activities by the NGOs. The bill underwent extensive consultations among the stakeholders with participation from national and international NGOs. Under the new Act registration of NGOs has been made mandatory for receiving foreign donations. NGO Affairs Bureau of Prime Minister's Office has been assigned with the responsibility of facilitating the process. The Act has provisions for the NGOs to form union to promote their collective interest and foster greater cooperation with the government. It also instructs the NGO Affairs Bureau to provide approval of work within 24 hours for NGOs and individuals during and after the disasters/emergency situation. The government would formulate Rules to implement this Act, if needed, to clarify various provisions of the Act.

Access to sex education and free use of friendly reproductive health services (2)

148.9 (deferred and further noted) 149.54 (noted in May, 2018)

19. The National Adolescent Health Strategy 2017-2030 articulated sexual and reproductive health. The issue of ensuring access to sex education and reproductive health is a socio-legal issue, and such facilities will be introduced in accordance with appropriate legal, social and cultural framework.